



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/529,480	07/25/2000	Andrew Francis Kirby	470044.404	9654

7590 10/17/2002
Seed Intellectual Property Law Group
Suite 6300
701 Fifth Avenue
Seattle, WA 98104-7092

EXAMINER

RAJGURU, UMAKANT K

ART UNIT	PAPER NUMBER
----------	--------------

1711 13
DATE MAILED: 10/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

TC-13

Office Action Summary	Application No.	Applicant(s)	
	Examiner	Group Art Unit	

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

Responsive to communication(s) filed on Sep 03, 2002 (paper no 12)

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1-65 is/are pending in the application.

Of the above claim(s) 3-8 and 58-65 is/are withdrawn from consideration.

Claim(s) 1 and 2 is/are allowed.

Claim(s) 9-57 is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) _____ are subject to restriction or election requirement

Application Papers

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

All Some* None of the:

Certified copies of the priority documents have been received.

Certified copies of the priority documents have been received in Application No. _____.

Copies of the certified copies of the priority documents have been received
in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892 Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

Office Action Summary

Art Unit: 1711

1. Finality of earlier office action Paper No. 11, mailed on July 2, 2002 is hereby withdrawn

to issue a new supplemental final rejection addressing the issues raised by the applicants.

2. Claims under examination are 1, 2 and 9-57.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. ~~Claims 15, 16, 24, 25, 27, 29, 32, 46, 47-49, 51, 54 and 55 are rejected under 35~~

26 *withdrawn May 28, 2003*
U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is vague because it recites Y as a carbon atom and O as a sulfur atom or POR. How can a carbon atom in the same formula be represented by C and Y?. How can hydrogen in the same formula be represented by R2 and R?. How can a sulfur atom (which in all scientific literature is represented by S) be represented by O?. Meaning of word "residue" is not clear. Also not clear is word "POR". Does P stand for phosphorus and O for oxygen or sulfur?. What does "R" stand for?

Similar comments apply to claims 16, 25, 26, 47 and 48.

Claims 29, 32 and 51 are vague in reciting "agriculturally acceptable salt". What is an agriculturally acceptable salt"?

Claims 27 and 49 are vague since meaning of "will not substantially change" is not clear.

Claim 55 is vague since meaning of "copolymers are in range of 1000 to 90,000 daltons" is not clear.

Claims 24 and 46 are indefinite in containing an improper Markush terminology. The members of the group have to be connected by "and" (not "or" as is done in these claims).

Art Unit: 1711

Claims 25 and 26 are indefinite because they recite a group having only one member.

Claim 54 is indefinite in reciting "derivatives" in lines 21 and 22 because it is not known which specific derivatives are envisioned in the scope of this claim.

5. Claims 9-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kataoka et al. (JP 58131903) in view of Fujita et al (JP 62-36302). (see English translations of these references).

*withdrawn
05.28.03*

Kataoka discloses a composition containing a water soluble sodium salt of a sulfonated monolefin and/or ethylenic unsaturated dicarboxylic acid copolymer resin (page 4, paragraph 2 of English translation). Insoluble materials such as bentonite, calcium carbonate are mentioned on page 7, prescription, (I). The copolymers disclosed by patentee read on those that are instantly claimed.

Kataoka does not mention an insoluble material that is useful for agricultural purposes such as those of instant claim 34.

Fujita discloses an agricultural chemical composition in which insecticides and similar other insoluble materials are used.

It would have been obvious from teachings of Fujita to use the insoluble materials of Fujita as alternate materials in the composition of Kataoka because then Kataoka's composition will have agriculturally useful insoluble materials very well dispersed in water due to the presence of copolymers which Kataoka has in its composition.

6. Claims 1, 9, 15, 16, 18, 24-26, 33, 37-41, 46-48, 55 and 57 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in

*maintained
05.28.2003*

Art Unit: 1711

such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Introduction of - finely divided solid - and water soluble - in claims 1, 9, etc. has been shown by applicants to have support from the specification; but (a) changing "cyclopentene" to - cyclopentane - in claim 1, (b) introduction of a proviso at end of step (i) in ~~claim~~ 9, (c) introduction of - or $\text{CH}_2\text{CO}_2\text{H}$ - etc. in claim 15 and (d) similar other changes in remaining claims are presented without pointing the support thereof.

7. Rejection of claims 15, 16, 24, 27, 29, 32, 46-49, 51, 54 and 55 under 35 U.S.C. 112, ~~second paragraph~~ (see item 6, prior Office action, Paper No. 6) is maintained since the *withdrawn 05.28.2003* applicants' arguments against the said rejection (on page 25 of Paper No. 9) are not persuasive.

Claim 55 as amended recites "a molecular weight" but fails to specify which type of molecular weight is envisioned.

On page 28 (of Paper No. 9), the applicants state that "As the Examiner has noted, Kataoka dose not mention ... agrochemical principles". This statement is not true since the Examiner has noted that "Kataoka does not mention an insoluble material that is useful for agricultural purposes".

Applicants' other argument (page 29) that there is no motivation to combine references is not persuasive because such motivation is presented (see page 6) in prior Office action (Paper No. 6).

8. A response (Paper No. 12) has been filed on September 3, 2002.

9. The amendment filed April 8, 2002 (Paper No. 9) is objected to under 35 U.S.C. 132 because it introduce new matter into the disclosure. 35 U.S.C. 132 states that no amendment

*Withdrawn
May 28, 2003*

shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

On page 2, paragraph A of above Paper No. 9, the applicants state that it is not clear which of the additions are treated as new matter by the Examiner. Examiner's response is that all additions, which are underlined, are treated as new matter, since the applicants have not shown where to find support for them.

Applicant is required to cancel the new matter in the reply to this Office Action.

As regards paragraph B on same page 2, the Examiner refers to the following amendments in the various claims.

Claim 1 (as amended) recites "cyclopentane", claim 9 recites "with the provision that ... the first comonomer is substituted"; claim 15 recites - or $\text{CH}_2\text{CO}_2\text{H}$ --, -- R_3 is hydrogen atom - where R is a hydrogenation atom ... or sulfonamide cation -; claim 18 recites - finely divided solid ---,---water soluble---, with the provision ... must be substituted; claim 25 recites - or $\text{CH}_2\text{CO}_2\text{H}$ - R_3 is a hydrogen --; claim 26 recites - where R is hydrogen atom ... sulfonamide cation -- ; claim 37 recites - finely divided solid --, water soluble ---, --- with the provision comonomers must be substituted -- ; claim 38 recites --- finely divided solid ---, water soluble --- with the provision ... comonomers must be substituted --; claims 39, 40 and 41 recited same phrases as claim 38; claim 47 recites - or $\text{CH}_2\text{CO}_2\text{H}$ --,-- R is hydrogen --; claim 48 recites - where R is a hydrogen atom ... sulfonamide cation ---.

Here also Applicants have not pointed out where is support for these amendments.

Examiner in the last office action (Paper No. 11) has set forth the examiner's comments and position (with reference to the applicant's arguments) purposely in a short form to

avoid repetitions because many claims now carry same or similar recitations. It seems that the applicants found it difficult to understand. Hence the above-elaborated version of the same matter (as in earlier office action, Paper No. 11) is presented.

~~Following lines should explain the motivation to combine Kataoka (JP 58131903) and Fujita (JP 62-3336302).~~

Kataoka discloses an agricultural composition containing a water-soluble salt, a copolymer and an aqueous medium and also some water-insoluble materials. Kataoka does not disclose a composition in which certain agriculturally useful water-insoluble materials are used. Fujita also discloses an agricultural composition which differs from that of Kataoka in using (claimed) agriculturally useful water-insoluble materials. It is consequently obvious to one of ordinary skill in the art to get an idea of using the water-insoluble materials of Fujita in the composition of Kataoka in place of existing water-insoluble materials to make the composition (of Kataoka) more useful and more effective for agricultural purposes.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to U.K. Rajguru whose telephone number is 703-308-3224. The examiner can normally be reached on Monday-Friday from 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 703-308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

U. K. Rajguru/mn
October 11, 2002



James J. Seidleck
Supervisory Patent Examiner
Technology Center 1700